

## **Maryland Board Of Pharmacy Public Minutes - December 15, 1999**

The Public meeting was called to order 8:45 A.M.

In attendance were President Stanton Ades, Commissioners: Secretary Irving Lottier, Wayne Dyke, Ramona McCarthy-Hawkins, Melvin Rubin, Jeanne Gilligan-Furman, Laura Schneider, Donald Yee, Barbara Faltz-Jackson, and Dr. Raymond Love; Board Counsel, Paul Ballard; Board Staff: PCO Michelle Andoll, Secretary Wendy Wilson, and PEP Student Scott Rohrbaugh.

Commissioners absent: Reverend Johnson and David Russo.

**Guest Present:** Mike Nicholson, Howard Schiff, Catherine Putz, Jack Freedman, Dorothy Levi, Nathan Gruz, Tiffany Corun, Tarik Ideis, Gilbert Cohen, Marvin Freedenberg.

### **Recusals**

President Ades asked that any member of the Board with a conflict of interest relating to an item on the agenda should notify the Board at this time.

There were no recusals

### **Approval of Minutes**

Page five (5), under Regulation Update, "Michelle Finney" should be spelled "Michelle Phinney". Page two (2), first paragraph, third line should indicate month with date, "Monday, November 22, 1999", also, tenth line, should read "Board of Social Work" instead of "Board of Social". Page eight (8), under Confidentiality Issues, first sentence delete the words "met following" and insert "discussed inquiries", also, fifth sentence, "The Committee asked the Board to inform permit holders and licensees of their obligations to confidentiality", should also indicate that "the Committee recommended that the Board include this in the newsletter."

A motion was made by Ms. Faltz-Jackson to approve November 17, 1999 minutes as amended. The motion was seconded by Dr. Love, with a unanimous decision from the Board.

### **Executive Director's Report/Executive Committee Report**

Mr. Rubin reported that the Board is in the midst of interviewing for the Executive Director's position. There have been three interviews thus far. Mr. Rubin stated that he hopes to have a total of ten (10) interviews completed by next week. Mr. Rubin stated that he would like some of the Board members to help with the interviewing process on December 23, 1999. Mr. Rubin reported that there were at least sixty (60)

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applications of which fifty-two met the qualifications and the Interview Committee has narrowed the applications down to ten (10) that Board members will interview. Mr. Rubin has reported that he hopes to make a final decision on one of the candidates at least by January's Board meeting.

### Confidentiality of Medical Records Working Session -

Mr. Rubin reported that there was a hearing in Annapolis regarding Confidentiality of Medical Records. Mr. Rubin reported that Senator Hollinger will be putting in legislation regarding this matter. Mr. Rubin stated that topics of discussion at the hearing were security of pharmacy records through on-line adjudication, selling of information and signature logs. Mr. Rubin stated that on December 14, 1999, he received a fax from Ms. Pease, who is on the Confidentiality of Medical Records Working Committee, regarding an insertion in the proposed legislation specific to pharmacies indicating that pharmacies cannot sell any information about prescription drug usage. Mr. Rubin stated that Mr. Johansen met with Ms. Pease to request that the segment be deleted. Mr. Rubin suggested that the Board come up with guidelines for pharmacists using the signature logs other than for insurance purposes.

Mr. Rubin stated that this log is kept by the pharmacists who ask their patients to sign stating that they have received the medication. Mr. Rubin suggested that the Board create a policy letter that would state that the pharmacists must have true informed consent from the patient(s) for other uses of the log.

Mr. Rubin reported on the status of hires which are:

- |                                 |   |
|---------------------------------|---|
| <u>Legislative Officer</u> -    | the Board is currently advertising for this position. This position will be shared with the Board of Social Work.   |
| <u>Database Technician</u> -    | the Board is currently advertising for this position.   |
| <u>Administrative Officer</u> - | this person's duties will mainly consist of personnel issues, fiscal, special projects, contracts and budgeting.  |
| <u>Full-time PCO Assist.</u> -  | this position has changed. The Board is considering some one who is not a pharmacist, such as a compliance analyst.   |
| <u>Licensing Supervisor</u> -   | Ms. Cornish currently holds this position. The Board will be changing this job description, deleting the personnel and contract duties in order for the person in this position to be able to focus on its main duty functions as a Licensing Supervisor. |
| <u>Office Sec II</u> -          | The duties of this position will change. The position will become more of a data entry position. The Board will   |

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consider enlisting the aide of an organization called  
"Chimes". This organization utilizes people with disabilities.

Mr. Rubin reported that in order for the Board to get the Media Campaign contract, the Board had to go through the Department of Public Works. Mr. Rubin stated the Board is still waiting for a final decision along with a signature on the Media Campaign Contract.

Mr. Rubin stated that last month a question was brought to the Board's attention regarding the lead period on regulations. Mr. Rubin stated that the effective date of finalized regulations is normally ten (10) days, but we can change that by a request when the regulations are submitted.

Ms. Andoll reported that the Food and Drug Administration (FDA) held a 50 state conference call on November 30, 1999 to inform state regulatory officials of the FDA's Y2K Rapid Response Plan (RRP). Ms. Andoll stated that the FDA has created a command center in a facility located in the District of Columbia not too far from the White House in conjunction with the Federal Emergency Management Administration (FEMA). The FDA informed participants that they will be working out of their command center twenty-four (24) hours a day, December 30, 1999 through January 4, 2000. Ms. Andoll stated that the FDA has sent out a booklet detailing their Y2K RRP and instructions on how to contact the FDA to report Y2K related problems with FDA regulated products. Listed in the booklet is the emergency contact phone number, their E-mail address and the general information number.

Semi Annual Report -

Mr. Rubin submitted a FYI, semi annual report that details the Board's progress since the last report was submitted six (6) months ago. Mr. Rubin reported that this report has to be sent to Secretary Benjamin, twice a year.

Mr. Rubin reported that Dr. Love has been licensed as a Board Certified Psychiatric Pharmacist.

Mr. Rubin reported that he met with Secretary Benjamin last week regarding the formulary. Dr. Love, David Knapp and Jim Polli attended the meeting. Dr. Benjamin has agreed to have a hearing on the possibility of removing the negative formulary items from the Maryland Formulary provided that BPQA and the Board send a joint letter stating that they both support having the hearing. Mr. Rubin stated that the Board will probably appear before BPQA to explain the reason for the hearing. He further stated that he has spoken to Dr. Sidney Seidman, Chairman, who agreed to allow Mr. Rubin to appear at the meeting.

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PCS changed their payment cycle from two (2) weeks to three (3) weeks. PCS handles eleven (11) billion dollars in health payments annually generating an interest rate of three hundred thousand (\$300,000) dollars a day according to one resource.

**Guest Presenter**

There was no guest presenter.

**Board Counsel's Report**

There was no counsel report.

**Committee Reports**

Licensing Committee -

Mr. Dyke reported that there were seven (7) candidates for the reciprocity meeting held Tuesday, December 14, 1999. These candidates were as follows:

Rasha Abouelkheir, Elizabeth Bekele, Karl Dickson, Vincent Jackson, Mark Jagers, Denise Norman and Gayle Smith. Mr. Dyke motioned that all candidates be approved for licensure. The motion was seconded Mrs. McCarthy-Hawkins, with a unanimous decision from the Board.

Mr. Dyke reported that there was no License Committee meeting held since the last Board meeting in November 1999. Mr. Dyke stated that the Wet Laboratory Examination is scheduled for Tuesday, January 11, 2000, at 8:30 a.m., located at the School of Pharmacy Learning Center which is the annex to the School of Pharmacy, 22 N. Pine Street, Baltimore, Maryland 21201. Proctors will be needed for this examination. Mr. Dyke reported that there are twelve (12) candidates so far to take the examination. Mr. Dyke stated that this is the first time that the Board is offering the third session of the Wet Laboratory Examination. This was done to streamline the obtaining of licensure in connection with the increased access to the NAPLEX and MPJE Examinations which have become computerized. Mr. Dyke suggested the Board move forward the spring time session that has historically been scheduled for late June since graduation is in May 2000.

The Board is concerned about the shortage of pharmacists because the shortage affects the delivery of service. The School of Pharmacy could increase enrollment to one hundred and fifty (150) students if facilities were expanded. Dr. Love stated that applications were down at least fifty (50%) percent this year and unfortunately, the

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class was not full due to an insufficient number of qualified applicants. Mr. Dyke suggested taking a public relations route to address this issue and the possibility of publicity on the Board's web-site in order to get pharmacists interested in reciprocating their license to Maryland.

Dr. Love suggested that the Committee talk with Dr. Beardsley, Associate Dean at the School of Pharmacy, who is responsible for admissions. Dr. Love stated that the school has exerted considerable efforts in recruiting students and has a number of ongoing programs and would be interested in partnering with the Board.

Mr. Lottier stated that sometime ago, the Board discussed changing the Board's wall certificates signature line from a twelve (12) line signature certificate, to a three (3) line signature certificate that would only require the President's, the Secretary's and the Treasurer's signature.

Dr. Love stated that the Board also discussed at its meeting in Frederick possible revisions in the Wet Laboratory Examination that would make this examination more of a written based examination. Mr. Dyke stated that the Board will continue with the traditional examination for January and may consider some changes for June 2000.

### Regulation Update -

Mr. Rubin submitted a FYI report regarding the status of the Board's regulations.

### PEAC (Pharmacists Education and Assistance Committee) Update -

Gil Cohen, PEAC representative, reported that their current case load consists of twenty-five (25) persons, twelve (12) of whom are Board referred. Mr. Cohen submitted two (2) items to the Board explaining the student program that is in place at PEAC. This student program was adopted at a faculty assembly on December 18, 1998. This project is essentially the same type of program for students that PEAC currently has for pharmacists. The steps for this program include entering into a contract, psychological evaluations, urine analysis, etc. Mr. Cohen stated that recently, one of the Board's concerns was what would happen with a student when he graduates and is still under a contract. Mr. Cohen stated that in the event of a violation of a contract while a student is still in school, it would be reported to the Dean. The Committee will have to work out with the Board the reporting mechanism if the student becomes a pharmacist before the contract ends and the student is not compliant. Mr. Cohen stated that the Committee just had its first graduate without a completed contract who is being monitored and is still expected to complete the contract. Mr. Cohen stated that the current policy was developed over a five (5) year period with the PEAC Student Committee. Mr. Cohen stated that the Committee has received full cooperation from the Dean's office even in an instance where a student could not participate in certain types of rotations. Dr. Richard Rumrill heads the rotation program and is also on the Committee and does not allow a student to go out on a dispensing rotation without the appropriate information

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being given to the preceptor.

Ms. Banks suggested putting the rehabilitation programs on the Board's web-site. PEAC does not have its own site.

### Pharmacy Practice Committee -

Dr. Love reported that the Committee met on December 1, 1999, and was able to finalize versions of several regulations. Dr. Love stated that the Committee discussed extensively, repackaging of medications and assisted living facilities. Dr. Love stated that a letter was received from the operator of some assisted living facilities expressing concerns that the Board is causing problems for assisted living regarding nurses being able to repackage medications. Dr. Love stated that this is not the Board's doing, but was a decision by the Board of Nursing. Dr. Love has asked Compliance Officer, Michelle Andoll to respond to these questions with the assistance of Mayer Handelman, by citing the appropriate regulation(s) and policies from Licensing and Certification and the Board of Nursing.

Dr. Love stated that the Committee also discussed a recommendation that was received from DDC regarding a need for a policy to document and maintain the records of medication transfers between pharmacies. Dr. Love stated that the Committee was reluctant to add a paper work burden to permit holders in addition to all the other requirements that they have. The Committee felt that this issue would only impose a problem if one was to become engaged in illegal activities and therefore, decided not to proceed with a policy on medication transfers at this time. Mr. Rubin suggested that the Committee consider a policy which would require records on sale from one pharmacy to another but not on borrowed medication which is returned in one week or some reasonable date.

In conclusion, Dr. Love reported on the Administrative Policy and Procedure, Draft #17, regarding dispensing by health department nurses. The Committee has worked extensively with the health department nurses to determine the necessary structures and safeguards for nurse dispensing in Health Department settings. Ms. Andoll stated that she will solicit comments from the Board members and the public. Dr. Love stated that the Committee would like to consider the comments at its next Committee meeting on Wednesday, January 5, 2000, at 4201 Patterson Avenue, Baltimore, Maryland 21215, at 4:30 p.m., room 110.

### Unlicensed Personnel Task Force -

Mr. Rubin reported that copies of the proposed regulations were sent out to interested parties, i.e. Board of Nursing, BPQA, etc. To date, no responses have been received. Mr. Rubin stated that if the Board does not receive any responses by the next Board meeting, January 19, 2000, these regulations will be forwarded for a final decision.

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### Automation Task Force -

Ms. Furman reported that the Task Force Committee meeting scheduled for December 16, 1999 has been canceled and rescheduled tentatively for January 20, 2000 to discuss matrix drawers versus non-matrix drawers and automatic dispensing cabinets.

### Medication Error Prevention Project - First Meeting Date -

Mr. Yee reported that he has been working with Mr. Bruce Gordon, who presented a medication error program. The Committee is hoping to schedule its first meeting by the end of January 2000. Mr. Yee stated that Pfizer will be presenting at this meeting .

### Regulations for Board Approval -

Dr. Love presented three (3) sets of regulations that the Practice Committee has worked on over the past several months. Dr. Love stated that he would like the Board's approval of these regulations before publication in the Maryland Register. The first set of regulations governs the format of prescription transmissions. Dr. Love stated that some time ago, the Board had electronic transmission regulations which was withdrawn after extensive comments were received. For that reason, these regulations were examined from a different perspective and it was determined that the regulations should deal with the principle of the validity of prescriptions, rather than the technology used to transmit prescriptions.

Several amendments were noted, they are as follows:

#### 10.34.20 [Format of Prescription Transmission] -

Page two (2), under item C2, delete the word "**and**" at the end of the word prescriber and insert it at the end of item three (3), deleting the period. Item three (3) should read: "Prevents unauthorized access and changes to the electronically transmitted prescriptions and;"

Page one (1), .01(B), delete any references to .04; change **.03** to **.03(B)**, and change 'do' to 'does'

Mr. Rubin motioned to approve regulations to be sent to interested parties to express the Board's current decisions. The motion was seconded by Mr. Yee, with a unanimous decision from the Board. The Board can then consider responses before sending the proposals to regulations.

#### 10.34.24 [Delivery of Prescriptions] -

Page one (1), under Statement of Purpose, delete the words "**outline principles**" and "**the**", insert the words, "**set requirements**" and "**a pharmacy's**", the Statement of

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Purpose should now read: *"The purpose of this action is to **set requirements** for a **pharmacy's** delivery of filled prescriptions for individual patients by delivery services to addresses in the State of Maryland."* ;

Page one (1), under .01 Scope A, delete the words **"only the"** and **"by"** insert the words **"a pharmacy's"** and **"via"**, the sentence should read, This chapter governs **a pharmacy's** delivery of filled prescriptions for individual patients **via** United States Postal Services (USPS), common carrier, or delivery service to an address or addresses within the State.

Page two (2), under .05A Packaging, delete (1) and insert the words **"be enclosed in a container that would reveal any tampering of the container that occurred during delivery or storage."**

Mr. Rubin motioned to incorporate Mr. Ballard's amendments to Title 10.34.24 and send to interested parties for comments. Motion was seconded by Mrs. McCarthy-Hawkins, with a unanimous decision from the Board.

### 10.34 [Outsourcing of Prescriptions] -

Page two (2), under .03(A)(5) Requirements, delete the words **"needs to document"**, insert the word **"documents"**, the regulation should now read: "The pharmacist receiving the prescription **documents** in a readily retrievable and identifiable manner that the prescription was prepared by another pharmacy".

Page three (3), under .03B Requirements, delete the word **"maintain"** and insert the word **"obtain"**, sentence should now read: "Shall **"obtain"** a waiver pharmacy permit for this purpose.

Page three (3), under .03C Requirements, change **"manufacturer"** to **"manufacturing"**.

Dr. Love motioned to have the outsourcing of prescriptions regulations approved and distributed for comments to interested parties. The motion was seconded by Reverend Johnson, with a unanimous decision from the Board.

### Public Relations Committee/Counsel of Boards Report

Ms. Jackson reported that the contract had a few minor detours. The Committee met with the Reeves Agency on December 8, 1999 and the Oversight Committee in November 1999. Mrs. Faltz-Jackson stated that one of the topics of discussion with the Reeves Agency was positive public relations through media appearances and the



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effect it would have on the public viewers.

The Committee would like the Reeves Agency to intercede in offering the Board training and service to insure that the Committee's meeting with media persons would be most effective. Ms. Faltz-Jackson stated that in order to achieve this, the first steps would be to gather up-to-date information that would benefit the training. One item of training would be to order the recently aired interview with WBAL and the Board's Pharmacist Compliance Officer, Michelle Andoll. Mrs. Faltz-Jackson stated that the Committee would like the Board to purchase the tape to review and use as a training tool for Board members. The cost is sixty-five (\$65.00) dollars.

Ms. Banks stated that the Reeves Agency discussed formatting (massaging) the tape. Ms. Banks indicated that the Committee would like to put the massaged version of the tape on the Board's web-site. Mr. Rubin stated that when interviews are reduced to short "sound bytes", the message can sound very different than was expected.

Mrs. Faltz-Jackson stated that the counsel is concerned about safety and security in the building. Also, the new lease may be as short as three (3) years. The Board needs to consider how much remodeling it would like to have done considering the length of time left on the lease. Mrs. Faltz-Jackson stated that the security issue is one where the Board was asked to contribute with other Boards due to a series of break-ins on the parking lots. Boards are asked to consider fencing and security cameras. The building owner(s) stated that they would not pay for this type of security measures. Mrs. Faltz-Jackson stated that the Counsel of Boards has taken upon itself to host the Legislature in Annapolis. Mrs. Faltz-Jackson indicated that she will be attending a meeting today about this event.

Mrs. Faltz-Jackson reported that all Y2K information and technician material(s) have been circulated very well throughout the State and we have received positive feedback regarding these materials. Mrs. Faltz-Jackson stated that she went to Mayor Martin O'Malley's inauguration and he stated that he had seen some of the materials and indicated the city also has a vested interest in Y2K.

Ms. Banks stated that ninety-five (95%) percent of pharmacies renewed.

Ms. Banks discussed the Committee's Y2K contingency plan at a meeting she attended on December 7, 1999, with the department. Ms. Banks is working to insure that on January 1st, 2nd and 3rd, 2000, that there will not be any problems with patients receiving their medications due to pharmacies inaccurate information in the database.

Ms. Banks reported that to date, there are approximately sixty (60) pharmacies who have not renewed. Ms. Banks reported that the Board has received approximately eleven thousand dollars (\$11,000) in late fees due to several pharmacies renewing late. Ms. Banks indicated that part of the Board's effort to get establishments to renew on time was to send out renewals in August 1999 instead of traditional October mailing.

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Also, Ms. Banks stated that she and the Board's intern called many of those who had not renewed. Ms. Banks stated that most of the establishments who did not renew were non-resident pharmacies. Ms. Banks indicated that this might be because they are required to submit inspection reports and were waiting for the reports from the local state agency. Ms. Banks stated that others just misplaced their application and were very appreciative of the courtesy call.

Ms. Banks stated that on December 9, 1999, the Board held a Y2K rollover test. This test entailed setting the clocks on the computer to December 31, 1999 at eleven-thirty (11:30) p.m. The staff continued working through this hour to watch the clocks rollover to January 1, 2000 to determine what problems if any would occur. Ms. Banks reported that all systems appeared to work except for the Board's link with the National Association of Boards of Pharmacy (NABP). NABP's system was out of sync with the Board's system and they assured the Board that when 2000 arrives that they would have all systems compliant for Y2K. Ms. Banks stated that the link between the Board and NABP is for people who reciprocate, this is an on-line system that NABP has developed in which the Board has a list of names of those reciprocating into Maryland. The information for these people is processed on-line and sent back on-line to NABP. Ms. Banks stated that if this system does not work, then, the Board would revert back to the old system which would be done manually.

Ms. Banks submitted to each Board member and staff person, a form that would indicate where each person would be on Thursday, December 31, 1999 to Tuesday, January 4, 1999 in case of emergency situations. The Board will be closed on Friday, December 31, 1999. Ms. Banks indicated that she would come in on that day and would turn off all computers, etc., and would return on Saturday, January 1, 2000 and turn all systems back on. Ms. Banks reported that the Baltimore Gas & Electric Company attended the Committee's last Y2K meeting and one of their concerns was massive power use. Mr. Rubin will be on call in case of emergency.

Ms. Banks stated that the Board is ready to have the public utilize the web site and make it public Monday, December 20, 1999. The web-site address is [www.dhmf.state.md.us/pharmacyboard](http://www.dhmf.state.md.us/pharmacyboard). Ms. Banks stated that the Board will link with American pharmaceutical Association (APHA) site and Maryland Pharmaceutical Association (MPHA) site amongst others. Ms. Banks stated that the Board has received several requests from Internet pharmacies and local pharmacy chains to provide a link from our site to their site, but the Board will not offer links to commercial sites.

### **Questions for the Board**

There were no questions for the Board.

### **Informational**

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Family Physicians have a Secure Role/Med. Mgmt. Agreement  
NABP News Release  
School of Pharmacy - Update  
2000 Board Meeting Schedule

The meeting was adjourned at 11:23 A.M.

Respectfully Submitted,

W. Irving Lottier, Jr.  
Secretary

WIL/wfw

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